



49404US26

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :  
Heidi WACHTER : GROUP: Unassigned  
SERIAL NO: 10/787,135 :  
FILED: February 27, 2004 : EXAMINER: Unassigned  
FOR: HOPPER KEY FOR IMAGE FORMING  
APPARATUS AND TONER REFILLING KIT  
USING THE SAME

PETITION UNDER 37 C.F.R. § 1.47(b)

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

Heidi Wachter, the sole inventor of the subject matter of the above-identified U.S. patent application, cannot be found or reached after diligent effort. Thus, in accordance with the provisions of 37 C.F.R. § 1.47(b), application is being made on her behalf by Mitsubishi Chemical America, Inc., which has a proprietary interest in the application, as demonstrated by the enclosed documents. Specifically, as shown in Exhibit A, on May 28, 1998, Heidi Wachter assigned the subject matter of provisional application no. 60/139,478, which was filed on June 17, 1999, to Mitsubishi Chemical America, Inc. The subject matter of the provisional application is the same as the subject matter of the above-identified application.

In accordance with MPEP § 409.03(b)(A) and 37 C.F.R. § 1.47(b), the enclosed declaration has been executed by an officer of Mitsubishi Chemical America, Inc. As shown in Exhibit A, Mitsubishi Chemical America, Inc. owns the subject matter of the application.

In accordance with MPEP § 409.03(b)(B) and 37 C.F.R. § 1.47(b), Heidi Wachter was employed by Mitsubishi Chemical America, Inc. on May 28, 1998, when Heidi Wachter assigned the rights to the subject matter of the application to Mitsubishi Chemical America, Inc.

In accordance with MPEP § 409.03(b)(C) and 37 C.F.R. § 1.47(c), Exhibit B is a declaration from Philip Hoffmann, which shows that Heidi Wachter cannot be found or reached after a diligent effort.

In accordance with MPEP § 409.03(b)(D) and 37 C.F.R. § 1.47(c), as shown in Exhibit B, the last known address for Heidi Wachter is:

6 B Block 8 Laguna Verde  
Hung Hom  
Kowloon, Hong Kong

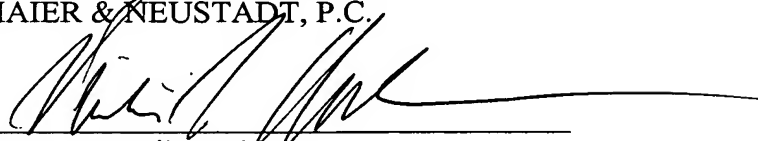
In accordance with MPEP § 409.03(b)(E) and 37 C.F.R. § 1.47(c), as shown in Exhibit A, Heidi Wachter assigned the subject matter of the above-identified application to Mitsubishi Chemical America, Inc. Thus, a proprietary interest in the subject matter of the application has been demonstrated by Mitsubishi Chemical America, Inc.

In accordance with MPEP § 409.03(b)(F) and 37 C.F.R. § 1.47(c), the filing date of the above-identified application is necessary to preserve the rights of Mitsubishi Chemical America, Inc. and to prevent irreparable damage.

Thus, for the above reasons, it is respectfully requested that this petition under 37 C.F.R. § 1.47(b) be granted, and the prosecution of the application by Mitsubishi Chemical America, Inc. on behalf of Heidi Wachter be permitted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Steven P. Weihrouch  
Registration No. 32,829

Philip J. Hoffmann  
Registration No. 46,340

Customer Number

22850

Tel: (703) 413-3000

Fax: (703) 413 -2220

(OSMMN 06/04)

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## Exhibit A

## Assignment Of Application

Page 1 of 2

WHEREAS, I (WE) HEIDI WACHTER of Newport News, Virginia and  
Kenichi ASAJIMA of Virginia Beach, Virginia

**INSERT NAMES  
AND RESIDENCE  
ADDRESSES OF  
THE INVENTORS:**

..., respectively,

INSERT TITLE  
OF INVENTION:

have invented certain new and useful improvements in: HOPPER KEY FOR IMAGE FORMING  
APPARATUS AND TONER REFILLING KIT INCLUDING THE SAME

for which a Provisional application was filed on \_\_\_\_\_

(Application No. \_\_\_\_\_) and \_\_\_\_\_

**INSERT NAME  
AND ADDRESS OF  
COMPANY OR  
OTHER ASSIGNEE:**

WHEREAS, MITSUBISHI CHEMICAL AMERICA, INC.

(hereinafter referred to as "ASSIGNEE") having a place of business at: \_\_\_\_\_

401 Volvo Parkway, Chesapeake, Virginia 23320

is desirous of acquiring the entire right, title and interest in and to said invention and in and to any Letters Patent that may be granted therefore in the United States and its territorial possessions and in any and all foreign countries:

NOW, THEREFORE, in consideration of the sum of FIVE DOLLARS (\$5.00), the receipt whereof is hereby acknowledged, and for other good and valuable consideration, I (WE), by these presents do sell, assign and transfer unto said ASSIGNEE, the full and exclusive right to the said invention in the United States and its territorial possessions and in all foreign countries and the entire right, title and interest in and to any and all Letters Patent which may be granted therefor in the United States and its territorial possessions and in any and all foreign countries and in and to any and all divisions, reissues, continuations, substitutions and renewals thereof.

I (WE) hereby authorize and request the Patent Office Officials in the United States and its territorial possessions and any and all foreign countries to issue any and all of said Letters Patent, when granted, to said ASSIGNEE as the assignee of my (our) entire right, title and interest in and to the same, for the sole use and behoof of said ASSIGNEE, its (his) successors and assigns, to the full end of the term for which said Letters Patent may be granted, as fully and entirely as the same would have been held by me (us) had this Assignment and sale not been made.

Further, I (WE) agree that I (WE) will communicate to said ASSIGNEE or its (his) representatives any facts known to me (us) respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuation, substitute, renewal and reissue applications, execute all necessary assignment papers to cause any and all of said Letter Patent to be issued to said ASSIGNEE, make all rightful oaths, and, generally do everything possible to aid said ASSIGNEE, its (his) successors and assigns, to obtain and enforce proper protection for said invention in the United States and its territorial possessions and in any and all foreign countries.

The undersigned hereby grant(s) the firm of Oblon, Spivak, McClelland, Maier & Neustadt, P.C. of Fourth Floor, 1755 Jefferson Davis Highway, Arlington, Virginia 22202 the power to insert on this assignment any further identification, including the application number and filing date, which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

Date: <u>5/28/98</u>	<u>Heidi Wachter</u> (Signature of Inventor) HEIDI WACHTER
Date: _____	<u>Kenichi Asajima</u> (Signature of Inventor) KENICHI ASAJIMA
Date: _____	_____ (Signature of Inventor)
Date: _____	_____ (Signature of Inventor)
Date: _____	_____ (Signature of Inventor)
Date: _____	_____ (Signature of Inventor)
Date: _____	_____ (Signature of Inventor)

**OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.**  
ATTORNEYS AT LAW  
FOURTH FLOOR  
1755 JEFFERSON DAVIS HIGHWAY  
ARLINGTON, VIRGINIA 22202



## EXHIBIT B

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### IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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Heidi WACHTER : GROUP: Unassigned

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### DECLARATION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

I, the undersigned, hereby declare that:

I, Philip Hoffmann, am employed as an attorney by the law firm of Oblon,  
Spivak, McClelland, Maier, and Neustad, PC, (Oblon Spivak) whose address is 1940  
Duke Street, Alexandria, Virginia.

On June 4, 2004, I was informed by Ms. Kathryn Roche, Assistant General  
Counsel of Intellectual Property at Mitsubishi Chemical America, Inc (the assignee of  
the present application) that the current address provided by Ms. Heidi Wachter is:

26B Block 8 Laguna Verde  
Hung Hom,  
Kowloon, Hong Kong.

On June 9, 2004, I was informed that Ms. Roche had requested of Ms.  
Wachter that Ms. Wachter execute assignment and declaration forms related to the  
above-identified application.

On June 22, 2004, our firm (Oblon Spivak) sent a letter to Ms. Wachter at the above address. The letter included declaration and assignment forms for filing in the above-identified application, as well as a copy of the as-filed application. A return envelope was also included with the letter. No reply to the letter was received.

On August 10, 2004, I was informed that Ms. Roche had requested of Ms. Wachter that Ms. Wachter return executed copies of the declaration and assignment forms included with the letter dated June 22, 2004.

On September 9, 2004, I sent an electronic mail message to Ms. Wachter at the electronic mail address provided by Ms. Roche on August 10, 2004, requesting that Ms. Wachter return executed copies of the declaration and assignment forms. No reply was received.

On September 23, 2004, the firm (Oblon Spivak) sent a letter via Federal Express to Ms. Wachter at the above address, requesting that Ms. Wachter return executed copies of the declaration and assignment forms. The letter included the as-filed application, as well as a labeled and postage-paid return Federal Express envelope. The Federal Express receipt indicated the letter was delivered to the above address on September 27, 2004. No reply was received.

Thus, in view of the above correspondence having been sent to Heidi Wachter, and in view of her not replying to any of the correspondence, it is asserted that Heidi Wachter cannot be found or reached after diligent effort.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Names and Signatures of Declarant:

 10/20/04

Philip J. Hoffmann

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